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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/404,729	09/24/1999	ANDREW A. BERLIN	D/99612Q5	8725

25453 7590 12/19/2005

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EXAMINER

ELISCA, PIERRE E

ART UNIT PAPER NUMBER

3621

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/404,729

Applicant(s)

BERLIN ET AL.

Examiner

Pierre E. Elisca

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to Applicant's amendment filed on 10/18/2005.
2. Claims 1-15 are pending.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-15 are rejected under 35 U.S.C. 102 (b) as being anticipated by Abelow (U.S. pat. No. 5,999,908) in view of Korhammer et al (U.S. Pat. No. 6,278,982).**

As per claims 1-15, Abelow substantially discloses a product or service that contains a microprocessor and a facility for communication, comprising:
multiple actuators, each of the multiple actuators having an actuator controller that is responsive to price information to control an applied force by the actuator on the structure (see., col 2, lines 13-27, specifically wherein it is stated that multiple actuators or computer hardware, software and communications technologies to construct a module that is built into certain products and services, to establish a network);

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an electrical conductor for transmitting voltage and accumulating charge, referred to as a marketwire; the marketwire being connected to each actuator controller to convey price information to the actuator controllers by analog variations in electrical characteristics of the marketwire (see., col 76, lines 61-65, specialized feedback systems may also provides price information, col 70, lines 60-11, col 1, lines 56-67, col 2, lines 1-5, productivity measures is readable as a sensor).

Abelow fails to disclose Applicant's newly added limitations wherein said the price information being represented on the marketwire by analog fluctuation in an electrical characteristic of the marketwire. However, Korhammer discloses a security trading system for consolidation of trading on multiple ECNs and electronic exchange. In the closed nature of individual ECNs, there are substantial fluctuations between the prices being offered within each ECN and between ECNs (see., Korhammer, abstract, col 3, lines 6-31). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the product distribution of Abelow by including the limitation detailed above as taught by Korhammer because this would determine the occurrence of certain types of market events.

RESPONSE TO ARGUMENTS

5. Applicant's arguments filed on 10/18/2005 have been fully considered but they are moot in view of new ground (s) of rejection.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 571 272 6706. The examiner can normally be reached on 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571 272 6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Pierre Eddy Elisca

Primary Patent Examiner

December 12, 2005